

**REMARKS**

Claims 1-5, 7-28, 44, 46 and 47 are pending in this application. Claims 1-5, 7-28, 46 and 47 have been allowed and claim 44 stands rejected.

**REJECTION UNDER 35 U.S.C. § 102**

Reconsideration is respectfully requested of the rejection of claim 44 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,593,185 ("Tsai").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); M.P.E.P. § 2131.

Applicants respectfully submit that claim 44, as amended, is not anticipated by Tsai. Claim 44 recites a method for fabricating a MIM capacitor that includes "depositing a sidewall liner material in the first and second vias, and removing a predetermined portion of the sidewall liner material from the bottom of the first and second vias to form spacers on each sidewall of the first and second vias."

The Examiner maintains that although Applicants' specification discloses "that liner material is removed from the bottom of the openings in their method, claim 44 does not require liner material to be removed from the bottom of the vias". March 2, 2005 Office Action at 3.

As amended, claim 44 requires that a portion of the sidewall liner material be removed from the bottom of the first and second vias to form spacers on each sidewall

of first and second vias.

Applicants respectfully submit that Tsai does not disclose or suggest this process. In contrast, Tsai shows a liner layer 28 which is deposited in a trench 22, a via 24 and an opening 26 such that the liner layer 28 lines both the sides and bottom of each of the trench 22, via 24 and opening 26. See Tsai, Figs. 4 -10. Therefore, unlike the embodiment recited in claim 44, Tsai does not teach removal of a portion of the liner material from the bottom of the first and second vias to form spacers on sidewalls of the openings. Indeed, as shown in Figs. 4 -10 of Tsai, the liner material is not removed from the trench, via or opening once it is deposited therein.

As such, Applicants respectfully submit that claim 44 is not anticipated by Tsai and respectfully request that the Examiner withdraw the rejection of claim 44 under 35 U.S.C. § 102(e).

An early and favorable reconsideration is earnestly solicited. If the Examiner has any further questions or comments, the Examiner may telephone Applicants' Attorney to reach a prompt disposition of this application.

Respectfully submitted,



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